THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.17435 OF 2003

DATED: 20-12-2006

Between:

J. Babu Rao

.. Petitioner

and

Deputy Registrar of Co-operative Societies, Visakhapatnam and others

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

W.P.NO.17435 OF 2003

Order:

This writ petition is filed seeking a certiorari calling for the records relating to the order dated 24-10-2002 in O.A.No.31 of 2001 on the file of the 3rd respondent and quash the same as arbitrary and illegal.

It appears, the petitioner was the treasurer of the Visakhapatnam Telecom Employees Co-operative Credit Society Limited, Visakhapatnam. While so, on the basis of an enquiry conducted under Section 51 of the A.P. Co-operative Societies Act, 1964 (for short 'the Act'), surcharge proceedings under Section 60 of the Act were initiated and the petitioner was found guilty for causing loss to the assets of the society. Therefore, a liability of Rs.91,862-03 ps. was fixed on the petitioner. Aggrieved by the same, the petitioner carried the matter in appeal in C.T.A.No.5 of 1976. The said C.T.A. was allowed and matter was remanded to the Surcharge Authority directing it to afford reasonable opportunity to the petitioner herein to put-forth his defence of non-liability by making available the concerned audit reports and furnishing copy of the enquiry report dated 09-08-1975 and to dispose of the matter as per law. Thereafter, the Surcharge Authority passed an order dated 24-06-1992 wherein it had taken note of the directions of the Cooperative Appellate Tribunal in C.T.A.No.5 of 1976 and it was further noticed that a final fresh surcharge notice was issued on 18-11-1991 and it was served through the society

to the individuals and that the enquiry report ordered to be supplied by the Court was supplied to them. The delinquents, in their objections, stated that the audit for the years 1969-70 and 1970-71 was incomplete and not properly accounted for. Therefore, they were directed to peruse the audit reports in the society. Thus, the directions issued by the Cooperative Appellate Tribunal were complied with and fresh surcharge order was passed. Aggrieved by the same, the petitioner carried the matter in appeal being O.A.No.31 of 2001 and the same was dismissed by the impugned order dated 24-10-2002. Aggrieved by the same, the present writ petition is filed.

The learned counsel for the petitioner strenuously contended that no reasonable opportunity was given to the petitioner and he was not permitted to cross-examine the auditor and the person who placed the audit report before the Surcharge Authority.

In fact, there is no necessity to go into all the details. The appellate authority earlier went into this aspect and remanded the matter. After remand, as noticed in the surcharge proceedings, the directions were complied with by furnishing documents to the petitioner and other material available on record. In spite of that, the same thing is repeated now. Further, he says that he was not permitted to cross-examine either the auditor or the person who placed the audit report before the Surcharge Authority. Except this contention of the petitioner that he was not permitted to cross-examine certain persons, there is no such pleading either before the Surcharge Authority or before the Appellate Authority.

Therefore, I am of the opinion that at this length of time raising such questions is nothing but to delay the matter further. The first surcharge proceedings were concluded in the year 1976 and now we are in 2006. The petitioner has successfully dragged on the matter for

thirty years. The writ petition is devoid of merits and is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs.

C.V. RAMULU, J

20-12-2006.

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